process of case-by-case adjudication") (internal quotation marks omitted).

3. Contrary to petitioner's argument (Pet. 14-15), the court of appeals' decisions below and in *Vasquez-Lopez* do not conflict with *Rivera-Jimenez* v. *INS*, 214 F.3d 1213 (10th Cir. 2000). In *Rivera-Jimenez*, the BIA had denied suspension of deportation on the ground that the alien's voluntary departure was not "brief, casual, and innocent" under pre-IIRIRA law, 8 U.S.C. 1254(b)(2) (1994). The court of appeals held that the case was governed by the post-IIRIRA rules for determining continuous physical presence rather than by pre-IIRIRA law. *Rivera-Jimenez*, 214 F.3d at 1216-1218. The court did not apply the post-IIRIRA rules, however, and made no suggestion that voluntary departure would fail to terminate continuous physical presence after IIRIRA. Instead, the court remanded to the BIA for the BIA's application in the first instance of the rules established by IIRIRA. *Id.* at 1218. In doing so, the court emphasized that there was, at that time, "no administrative interpretation" of the provisions enacted by IIRIRA, and that such an interpretation would be accorded considerable weight. *Ibid.* Accordingly, far from conflicting with the court of appeals' decisions below and in *Vasquez-Lopez*, the decision in *Rivera-Jimenez* indicates that the Tenth Circuit would now agree with the holding of *Vasquez-Lopez* that the BIA's subsequent interpretation in *Romalez-Alcaide* is entitled to deference.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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